

Farm Credit Administration

§ 614.4560

and sustained effort to serve agricultural or aquatic producers and the 15 percent will be attained in a reasonably short period. Only obligations under section 2.15(a) (1), (2), and (3) of the Farm Credit Act of 1971, as amended, as well as eligible agricultural or aquatic real estate loans to eligible borrowers and leasing obligations to eligible borrowers originated through the OFI's own leasing program, shall be considered in determining that this 15-percent requirement has been met.

(3) Where the OFI seeking access is a depository institution, or where the OFI is affiliated with one or more depository institutions and considered a combined entity in accordance with § 614.4545(c) of this subpart, the OFI must demonstrate a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers. The OFI's gross loan-to-deposit ratio shall be not less than 60 percent at the seasonal peak for the last 3 consecutive years. Where failure to meet this criterion in one of the last 3 consecutive years is the result of a general decrease in borrowings caused by an economic decline, the bank may make an exception in applying this criterion to a request for access where the OFI has otherwise maintained ratios equivalent to depository institutions of comparable size in the district. For purposes of this paragraph, gross loans shall include all direct credit extended by the OFI in its trade area. Such items as loans purchased from or participated in with other OFIs shall be excluded.

(4) The OFI has limited access to national or regional money markets as an alternate source of funds and is fully utilizing locally generated funds to finance local needs. Evidence of money market access shall be determined by the extent to which the OFI, or persons of similar size and circumstances, have the ability to utilize, on a regular basis, bankers acceptances, commercial paper, or negotiable certificates of deposit, or other similar liability instruments as a source of funds.

(5) The OFI would continue to use at least the same proportion of its resources for agricultural or aquatic lending.

(b) An OFI eligible under previous regulations which cannot meet the basic eligibility requirements of these regulations and is discounting with a bank on the effective date of these revisions shall not become ineligible provided it does not make material changes in operations or ownership.

[46 FR 51886, Oct. 22, 1981, as amended at 55 FR 24886, June 19, 1990]

§ 614.4555 Review of denial of access based on eligibility.

A bank which proposes to reject a request by an OFI for access to the bank as a source of funds on the basis of eligibility as set forth in § 614.4550 of this subpart shall promptly notify the Farm Credit Administration of such decision and the reasons therefor. The Farm Credit Administration shall review each such negative decision on a case-by-case basis, taking into consideration all relevant factors, and advise the bank of its final determination. Thereafter, the bank shall promptly notify the OFI of the determination as to the request for access and, if rejected, the reasons therefor.

[46 FR 51886, Oct. 22, 1981, as amended at 55 FR 24886, June 19, 1990]

§ 614.4560 Establishing and maintaining access.

(a) An OFI seeking access to a bank as a supplemental source of funds shall demonstrate that it is able to establish and maintain a sound lending program. Each bank shall develop standards to evaluate an OFI relative to:

(1) A capital structure adequate to support an economically feasible lending operation;

(2) The amount of collateral required to be deposited with or invested in the bank to support the extension of credit to the OFI; and

(3) The ability of the OFI to extend and administer the anticipated loan portfolio on a sound basis.

(b) The standards set forth in paragraph (a) shall be subject to the following limitations:

(1) The amount required to capitalize an OFI shall be determined by an analysis of the economic feasibility of the proposal presented in the request, the credit risk involved, and the servicing

cost to the bank. Any uniform minimum capital requirement based on the bank's administrative costs shall be supported by documented costs which clearly demonstrate the need for the minimum requirement.

(2) The initial capital required to be invested in the bank by an OFI shall be no greater than the actual average investment required of associations in the district. OFIs with established access relationships may be assessed for additional capital if the contract is renegotiated to permit a larger volume of loans or when a general capital equalization or assessment is made. Capital invested in the bank by an OFI shall be retired in accordance with bank policy.

(3) No obligation shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a bank to an OFI if the amount of such obligation added to the aggregate liabilities of such OFI, whether direct or contingent (other than bona fide deposit liabilities), exceeds 10 times the paid-in and unimpaired capital and surplus of such OFI or the amount of such liabilities permitted under the laws of the jurisdiction creating such OFI, whichever is less. It shall be unlawful for any national bank which is indebted to any bank upon obligation discounted or purchased to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities, direct or contingent, will exceed the limitation contained herein. A debt-to-capital ratio less than that permitted by statute may be imposed to assure that the OFI maintains its eligibility to borrow and provides adequate capital from a credit standpoint. Any lesser ratio imposed initially shall not be less than one ratio point below the district average for associations. Once the OFI has established and maintained a satisfactory access relationship with a bank, the debt-to-capital standard shall be the same as that used in evaluating associations.

(4) General collateral securing the entire credit line from a bank may be required in accordance with § 614.4570 of this subpart. The amount to be required shall be based on the credit risk presented by the OFI and shall not be

proportionally greater than is required of a association under similar circumstances.

(5) Credit lines with a bank shall be established based solely on the management ability, financial condition, and needs of the OFI. The line shall be renegotiated based on these same criteria when the needs of the OFI increase. A credit line shall be established for at least a 2-year term in support of the OFI's continuing need for access. The OFI shall provide the bank a 2-year projected average daily loan balance. Failure to maintain an annual average daily balance of loans discounted to at least 70 percent of the projected average daily balance shall subject the OFI to payment of an annual loan commitment fee. The fee shall be equal to 1 percent of the difference between the projected and approved average daily balance and the actual average daily balance of loans outstanding or discounted. The bank must make exceptions when failure to comply with this requirement is caused by a general decrease in agricultural borrowings caused by an economic decline, but no exception shall be made when failure to comply with this requirement is due to borrowings obtained from other sources or repurchase of loans by an affiliate. Repeated failure to utilize the line of credit at an acceptable level may result in loss of access. No fee shall be assessed if the relationship is terminated by the bank for reasons other than those stated in this section. OFIs with inactive access relationships on the effective date of these regulations shall be notified and given a reasonable opportunity to activate or cancel the relationship.

[46 FR 51886, Oct. 22, 1981, as amended at 46 FR 59960, Dec. 8, 1981; 55 FR 24886, June 19, 1990]

§ 614.4565 Lending limit.

An OFI having access to a bank shall not accept liability on any loan or other obligation, or obtain any endorsement or guarantee from a borrower where the aggregate of such liabilities or indebtedness to the OFI would exceed 50 percent of its capital and surplus or such lesser amount as may be established by other State or Federal statute. OFIs which have loans